**IN THE HIGH COURT OF JUDICATURE AT BOBBY**

**APPELLATE SIDE**

CRIMINAL WRIT PETITION NO. 1057 OF 2007

Lt. JAY SWARNAKAR .. PETITIONER

Versus

UNION OF UINDIA & ORS. .. RESPONDENTS

Mr. K. H. Halai i/b M/s. Halai & Co. for petitioner

Mr. B.A. Desai, Addl. Solicitor General with Mrs. Revati Mohite Dere for R-1

Ms. P.H. Kantharia, APP

CORAM:-SMT. RANJANA DESAI &
D. B. BHOSALE,JJ.

DATED:-21/6/2007

P.C.

. The petitioner has prayed that records and proceedings of the Court Martial of the petitioner be called for and judgment dated 6/6/2007 pronounced on 6/6/2007 holding the petitioner guilty of charge 2 and 3 and sentencing him to 9 months R I etc. be quashed and set aside.

2. We have heard the learned counsel for the petitioner and Mr. Desai, learned Addl. Solicitor

General.

3. Admittedly an alternative remedy of review to the Judge Advocate General of the Navy is available to the petitioner under Section 160 of the Navy Act, 1957. It is, therefore, not possible for us to entertain this petition as an efficacious alternative remedy is available to the petitioner.

4. The learned counsel for the petitioner states that he will file a review application on or before Monday, i.e. on 25/6/07. He states that the application preferred by the petitioner for suspension of sentence is already pending before respondent No. 3.

5. Mr. Desai states that the application for suspension of sentence has already been considered by the 3rd respondent and it has been forwarded to the Chief of Naval Staff. Mr. Desai states that the authority whic is in law authorized to consider this application shall consider it within eight days from today and the order passed thereon shall be communicated to the petitioner.

6. Mr. Desai states that so far as the review

application is concerned, personal hearing will be given to the petitioner on 5/7/07. He states that after hearing the petitioner, Judge Advocate General will pass appropriate order thereon within two weeks thereafter. Mr. Desai states that the Chief of Naval Staff will then pass final speaking order thereon after one week. Mr. Desai states that speaking order will be passed without prejudice to the contentions of the respondents that speaking order is not necessary. We accept the statements made by Mr. Desai.

7. We make it clear that, we have not expressed any opinion on the question whether speaking order is necessary or not. All contentions of both sides are kept open.

8. We direct that the order of the chief of the Naval Staff shall be communicated to the petitioner.

9. Liberty to apply.

10. The petition is disposed of in the aforestated terms.

JUDGE.

JUDGE.